

Opinion No. 2007-263

December 12, 2007

The Honorable Willard Proctor, Jr., Circuit Judge
Sixth Judicial District, Fifth Division
401 West Markham, Suite 410
Little Rock, Arkansas 72201

Dear Judge Proctor:

I am writing in response to your request for an Attorney General's opinion on the following question:

When a Circuit Judge orders a probationer to participate in a program under A.C.A. § 5-4-303 (c)(5) as a condition of his probation, is the Circuit Clerk of that County allowed to collect the fee that the Circuit Judge is allowed to impose for participation in that program under A.C.A. § 16-13-709 when the Circuit Clerk has been designated by the Quorum Court of that County to collect fines assessed by the Circuit Courts of that County?

RESPONSE

I am unable to provide an opinion on this question at this time. The question you pose concerns the subject matter of an "Investigative Report" prepared by the Legislative Joint Auditing Committee, issued August 1, 2007. It is my understanding that circumstances involving the issue set out above are being reviewed by the Pulaski County Prosecuting Attorney's Office and/or the Arkansas State Police. My predecessors have followed a policy of declining to opine on matters that are the subject of a current investigation. *See, e.g., Ops.*

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Att'y Gen. 2004-251; 2004-232; and 95-188. I must therefore decline to provide an opinion on the question presented.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:ECW/cyh